

Minneapolis Planning Department

350 South Fifth Street, Room 210

Minneapolis, MN 55415-1385

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MEMORANDUM

DATE: May 7, 2002

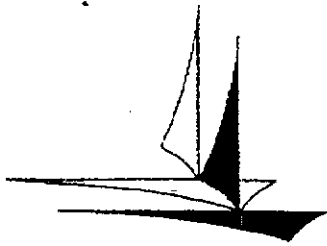
TO: Council Member Gary Schiff, Chair, and Members, Zoning & Planning Committee

FROM: Gary Dorek - Planning Department

SUBJECT: Appeal of recommendation by the Minneapolis Planning Commission on April 1, 2002, approving a site plan review, CUP, and variance (BZZ-498) for a 29-unit apartment building by Swervo Development at 4429 Nicollet Avenue South Ward 8).

Steve Jevning of King Field Neighborhood Association (KFNA), has appealed the action of the Minneapolis Planning Commission at its April 1, 2002, meeting, approving the application of Nedal Abdul (Swervo Development) for a site plan review, CUP, & variance, for the above property. I have enclosed the following materials:

- 1) Staff report on BZZ-498.
- 2) Appeal form and letter from Steve Jevning, representing King Field Neighborhood Association.
- 3) Minutes of the April 1, 2002, Planning Commission meeting.



City of Minneapolis
Inspections Division of Regulatory Services
Office of Zoning Administration
250 South 4th St. Room 300
Minneapolis MN 55415-1316
612-673-5836
Fax 612-673-3173

Notice of exception
To the Decision of the City Planning Commission

A complete application¹ shall be filed in the zoning office by 4:30 p.m. within ten (10) calendar days of the date of decision by the city planning commission.

MAILING/OFFICE ADDRESS:

Zoning Administrator
Office of Zoning Administration
Public Service Center
250 S. 4th St. Room 300
Minneapolis MN 55415-1316
Office: 612-673-5867
Fax: 612-673-3173

Date: April 10, 2002

RE: 4429 Nicollet Ave. S.
(address)

File No. B22-498

I, Steve Jerning do hereby file an exception to the Decision of the City Planning Commission as provided for in Chapter 525.180;

525.180. Appeals of decisions of the city planning commission or board of adjustment. All decisions of the city planning commission, except zoning amendments, and all decisions of the board of adjustment shall be final subject to appeal to the city council and the right of subsequent judicial review. Appeals may be initiated by any affected person by filing the appeal with the zoning administrator on a form approved by the zoning administrator. All appeals shall be filed within ten (10) calendar days of the date of decision by the city planning commission or board of adjustment. No action shall be taken by any person to develop, grade or otherwise alter the property until expiration of the ten-day appeal period and, if an appeal is filed pursuant to this section, until after a final decision has been made by the city council. Not less than ten (10) days before the public hearing to be held by the zoning and planning committee of the city council to consider the appeal, the zoning administrator shall mail notice of the hearing to the property owners and the registered neighborhood group(s) who were sent notice of the public hearing held by the city planning commission or the board of adjustment. The failure to give mailed notice to individual property owners, or defects in the notice, shall not invalidate the proceedings provided a bona fide attempt to comply with this section has been made.

(2000-Or-034, § 2, 5-19-2000)

Further, I do hereby request that I be given an opportunity to express by case before the proper committee of the Honorable City Council.
The action being appealed and the reasons for appealing the decision are attached and made a part of this notice of exception.

Sincerely,

(Name) Steve Jerning on behalf of the
Kingfield Neighborhood Association
(Address) 3754 Pleasant Ave. S. Apts 55409
(Telephone) 823-5980

¹ Complete Application – includes a completed application form and attached statement explaining the basis for appeal, correct fee and mailing labels
BZZ-

10/00/00
appeals CPC.doc

April 10, 2002
Zoning Administrator
City of Minneapolis

Re: Notice of exception to the decision of the Minneapolis Planning Commission
4429 Nicollet Avenue S., Minneapolis, Swervo Development
File No. BZZ-498 (Gary Dorek, staff)

The Kingfield Neighborhood Association (KFNA) appeals the Planning Commission decision to grant a variance of lot area, Conditional Use Permit and site plan review to allow the conversion of a vacant nursing home into a 29-unit market rate apartment building.

KFNA is committed to guaranteeing that 4429 Nicollet Avenue is developed as a high quality project with a mix of affordable and market rate units. Therefore, we appeal the decision on the following basis:

- 1) The Kingfield Neighborhood Association's policy regarding multi-family housing development is:

To create and sustain affordability and a balance of mixed-income housing in Kingfield. Thirty percent (30%) of replacement of new housing in any given project in the Kingfield Neighborhood should be developed as affordable at 30 to 50 percent of the Metro Median Income (MMI); 30 percent (30%) affordable at 60 percent of MMI, and the rest (40%) at market rate.

The application by Swervo Development describes the projects as:

Conversion and rehab of a vacant and non-operating nursing home to a 40 unit market rate multi-family building.

The number of units has been lowered to 29 units and the developer has represented to the community and to the Minneapolis Planning Commission that 20% of the units (6) will be affordable to persons with incomes no greater than 50% of the MMI. No evidence supporting this plan - financial proforma or plans - has been presented.

If the developer creates affordable units on this site they shall continue to be affordable if the property is sold at a later date.

- 2) Swervo Development promised at a public meeting on March 21 that they would provide a written plan for managing the property and the name of the rental management company prior to the Planning Commission meeting on April 1. They did not and still have not done so.

A conditional use permit for this property shall only be granted if the developer provides evidence of an agreement with a professional rental management company. That company shall be responsible for management and maintenance of the property and provide a full time site manager that lives on the premises.

- 3) The developer has not provided architectural drawings of the building showing the configuration of both a 24-unit development and a 29-unit development as promised at the March 21 neighborhood meeting. The developer shall provide drawings showing room and unit sizes and proposed rents.

Notice of exception to the decision of the Minneapolis Planning Commission
4429 Nicollet Avenue S., Minneapolis, Swervo Development

Page Two

- 4) The application proposes removal of a wooden handicap accessible ramp in the front of the structure without creating another means of entry for handicapped persons. The building shall be fully accessible to handicapped persons.
- 5) The developer shall ensure that all asbestos in the building is removed and disposed a proper manner.
- 6) All housing units created with three or more bedrooms shall have at least 1-1/2 bathrooms.
- 7) KFNA has seen only a preliminary site plan. Neighborhood approval of a complete site plan including landscaping details, fencing, green space, trash protection, etc. is expected.
- 8) Parking: There shall be no unattended vehicles on the parking lot and no car repairs completed on the lot.
- 9) The developer shall provide evidence that a monthly maintenance reserve has been created in a separate account to ensure that funds are available for maintenance and repairs after the remodeling is complete.
- 10) The developer shall present a financial proforma for the project. KFNA is concerned that the income generated by the project may not be sufficient to ensure adequate renovation or provide for necessary maintenance and repairs.
- 11) If a conditional use permit is granted for this property there shall be an annual review by city staff of all conditions that are a part of such a permit.

Excerpt from the .
Monday, April 1, 2002
CITY PLANNING COMMISSION
MINUTES
220 City Hall
Minneapolis, Minnesota 55415
4:30 p.m.

13. 4429 Nicollet Avenue South (8th Ward - BZZ-498, CUP)

Application by Swervo Development for a conditional use permit to allow conversion of a vacant nursing home into a 29-unit apartment building. This item was continued at the February 25 and March 18, 2002 meetings. (Staff, Gary Dorek)

Gary Dorek presented the staff report.

The public hearing was opened.

Ned Abdul, Swervo Development, applicant, indicated that they were proposing 29 units. The main reason for the variance application was because of the structural configuration of the building with poured concrete bearing walls. The building was a 40,000 square foot building on the interior based on two and a half stories. Putting in 24 units would tend to lead to very large 1500 or 1600 square foot units which wouldn't be very marketable or desired in the neighborhood. They would be stuck with four bedroom units all in one property which would be very intensive and hard to manage. Increasing the unit count would allow for a mix of one, two and three-bedroom units which would be more manageable. Structurally the building is a poured concrete building and it would be difficult to move the walls for a different unit count. They were willing to offer an affordable housing element of 20% of the units to be below 50% of the median income which was a resolution that had been adopted by the MCDA. Currently there was no public funding involved in the project, as they hadn't made application. They were going to apply for some public funding and if they received that, the ratios would increase.

Steve Jerning, Kingfield Neighborhood Assn., Board of Directors, apologized for not getting a letter before the Commission. They had been waiting until today to get some information that they had requested from the developer at a neighborhood meeting that was held on March 21st. As Mr. Dorek mentioned, this project has been through a few different configurations. They had met with Mr. Abdul three times, as he slowly changed the project, they had been trying to keep abreast of what his plans were for the building. They were concerned about a couple of things. At the neighborhood meeting to which they invited all of the residents within a three block area of this site, as well as the entire neighborhood, a couple of issues arose when Mr. Abdul made his presentation. One was concerned about the long term ownership and management of the property. Mr. Abdul had made it clear that he was a developer and not a long term property owner and his intention upon redeveloping the property would be to sell it to another investor. That caused some concern about what the management structure would be and who the company might be and what the strategy was for managing the property. They hoped to

get that information before the Planning Commission meeting so they could use that to inform their recommendation to the Commission, but they hadn't received it. The other information they had asked for was a rough schematic outline of the building, either at 24 or at 29 units to get a sense of what the apartment units would be like. He just spoke with Mr. Abdul and he indicated that he did have that drawing. The other issue that was a part of the discussions that they had with the developer had been to try to get a clear understanding of the number and the kinds of affordability mix in the units that would be developed. The application, as Mr. Dorek mentioned, was originally for all market rate units. It seemed to them, based on the developers past experience, that was his interest and his priority for doing projects. He didn't seem to have a lot of experience or a huge commitment to making the affordable units mixed and that was in contrast to the neighborhood position which had been to encourage redevelopment of this site as either affordable housing or a school site. Mr. Dorek mentioned the Charter school that had come in a few months ago and did not have funding to complete the project. They had been trying to encourage both non profit and for profit developers to look at this site and committing NRP money to make it affordable or more affordable if necessary. The present developer hadn't expressed interest in that affordability process. Given the lack of complete information about the revised proposal, he requested that the Commission either delay this for another cycle so that they could get the final information and let the Board digest the new information to have a more informed opinion about the 29 unit project or to deny the request for a variance.

The public hearing was closed.

Commissioner Schiff stated that he did not have information about the floor layout of the building and asked if that was required as part of the site plan review process?

Dorek, staff, replied no. In this case, there was some shifting. It was originally 38 [units], now it was 29 [units]. Mr. Abdul had not submitted the floor information and staff did not request that he do that.

Commissioner Schiff asked Mr. Abdul if he had copies of the floor plan to share with the Commission?

Mr. Abdul displayed the floor plans and described the layout. The units would average 1,000 to 1,100 square feet with the 29-unit configuration. If they were to go with 24 units, that number would go up to 1,400 or 1,500 [square feet]. There were not many affordable 1,400 one-bedroom units which would make them have to go for a larger type of unit which was not very practical. He thought a mix was a much more practical way to go. Even with the 29 [units], they still had a fairly large unit, that was why they originally applied for 38 [units], but under the advice of staff, they had reduced that to 29 based on the lack of parking and the congestion that may be on the streets such as Nicollet Avenue.

Commissioner Johnson indicated she was concerned about the fact that the neighborhood group had not been able to weigh in on the subject because of different issues that had come up and unavailability of information. She was uncomfortable dealing with this without hearing a recommendation one way or another from the neighborhood group.

Commissioner Hale stated all of the initial items referred to a 29 unit apartment and in item #15, it said 39.

Commissioner Bradley assumed the 39 was a typo, it should be 29.

Commissioner Schiff indicated while he was sympathetic to the neighborhood concerns and they were good questions to be having, he didn't think the management structure of the long term ownership of the building was anything that the Commission could consider in reviewing a conditional use permit or the other issues before them. He was pleased with the additional information that had been provided at the meeting.

Commissioner Schiff motioned, Tucker seconded to adopt the findings prepared by staff and approve the application for a conditional use permit at 4429 Nicollet Avenue South for conversion of a vacant nursing home into a 29-unit apartment building. Carried, Johnson voted no.

14. 4429 Nicollet Avenue South (8th Ward - BZZ-498, Site Plan Review)

Application by Swervo Development for site plan review of a 29-unit apartment building. This item was continued at the February 25 and March 18, 2002 meetings. (Staff, Gary Dorek)

The public hearing was opened.

See discussion in item # 13 above.

The public hearing was closed.

Commissioner Schiff motioned, Tucker seconded to adopt the findings prepared by staff and approve the application for site plan review at 4429 Nicollet Avenue South for conversion of a vacant nursing home into a 29-unit apartment building subject to the following conditions: 1) The Planning Department shall review and approve the final site and landscaping plans; 2) The final site and landscape plan shall show: a) Shrubs 3' in height, providing a minimum of 60% opacity, adjacent to the parking areas that front on Nicollet Avenue and East 45th Street, and an encroachment permit; b) A minimum of 9 canopy trees and 43 shrubs; 3) The applicant shall provide a performance bond in and amount equal to 125% of the cost of site improvements, if such improvements exceed \$2,000 in cost. by June 15, 2002, or the permit may be revoked for noncompliance; and, 4) All site improvements shall be completed by May 1, 2003, unless extended by the Zoning Administrator, or the permit may be revoked for noncompliance. Carried, Johnson voted no.

15. **4429 Nicollet Avenue South (8th Ward - BZZ-498, Variance)**

Application by Swervo Development for a variance of lot area per Dwelling Unit (DU) from 1,500 square feet/DU to 1,217 square feet/DU for a 29-unit apartment building. This item was continued at the February 25 and March 18, 2002 meetings. (Staff, Gary Dorek)

The public hearing was opened.

See discussion in item # 13 above.

The public hearing was closed.

Commissioner Schiff motioned, Tucker seconded to adopt the findings prepared by staff and **approve** the application for variance of lot area per Dwelling Unit (DU) from 1,500 square feet/DU to 1,217 square feet/DU at 4429 Nicollet Avenue South. **Carried.** Johnson voted no.

16. **4429 Nicollet Avenue South (8th Ward - BZZ-498, Variance)**

Application by Swervo Development for a front yard variance on Nicollet Avenue from 15 feet (existing) to five feet (proposed) for surface parking lot for conversion of a vacant nursing home into a 39-unit apartment building. This item was continued at the February 25 and March 18, 2002 meetings. (Staff, Gary Dorek)

The City Planning Department determined that the front yard variance was no longer needed because of modifications to the site plan.

Minneapolis City Planning Department Report

Rezoning, CUP, Variance, & Site Plan Review Applications
BZZ-498

Date: April 1, 2002

Applicant: Swervo Development

Address of Property: 4429 Nicollet Avenue South

Date Application Deemed Complete: January 15, 2002

End of 60-Day Decision Period: March 16, 2002

End of 120-Day Decision Period: May 15, 2002

Applicant Waive 60-Day Requirement: No

Contact Person and Phone: Nedal Abdul 952-942-0307

Planning Staff and Phone: Gary Dorek 612-673-2587

Ward: 8 **Neighborhood Organization:** King Field Neighborhood Association

Existing Zoning: R4

Legal Description: Lot 8, Block 2, and lots 10, 11, 12, 13, 14, and the east 42 feet of lots 8 & 9, Block 3, Turner and Warnock's First Addition to Minneapolis.

Proposed Use: Conversion of a vacant nursing home into a 29-unit multiple-family market-rate apartment building.

Previous Actions: On 4-16-01 the Planning Commission approved a CUP and variances for the Friendship Academy of Fine Arts charter school to operate in this building as a K-4 elementary charter school. The project was not implemented.

Concurrent Review: The application requires a variance of lot area per DU from 1,500 square feet/DU (required) to 1,217 (provided), Conditional Use Permit for a multiple family dwelling of more than 5 units; and site plan review. The original rezoning from R4 to R5 and yard setback variances for parking have been withdrawn.

Appropriate Section(s) of the Zoning Code: Chapters 525, 530 & 546

Minneapolis City Planning Department Report
BZZ-498

Background: The applicant proposes development of multiple-family, market-rate apartments in an existing building previously used as a 116-bed nursing home (Good Samaritan Center). A previous proposal to use the site as a charter school was not implemented. The initial application requested rezoning to R5 to allow a 38-unit development, and would also have required a variance to the number of parking spaces required and setback variances for parking location in required setbacks. The rezoning and setback and parking reduction variances have been withdrawn due to modifications to the project. The exact number of units and type of units had not been decided when it was noticed for Planning Commission hearing on 2-25-02, so it was continued to the March 18, 2002 meeting. Staff had also requested that the applicant explore alternative parking plans to maximize parking beyond the 24 spaces initially shown on the plan. The applicant has now modified the plan to propose a 29-unit development (7-1BR, 11-2BR, 11-3BR) with 29 parking spaces on the site. This eliminates the need for rezoning, but will require a variance in required lot area per dwelling, as well as site plan review and a CUP. The Council Member requested a further continuance to the 4-1-02 Planning Commission meeting to allow the neighborhood organization to review and evaluate the current proposal. The continuance also allowed the applicant to submit the proper variance application materials and information.

REZONING

The applicant has withdrawn the rezoning request because the number of units has been decreased.

CONDITIONAL USE PERMIT

To allow a multiple-family dwelling with five or more units in the R4 zoning district (29 DU proposed).

Findings as required by the Minneapolis Zoning Code:

The Minneapolis City Planning Department has analyzed the application and from the findings above concludes that the establishment, maintenance, or operation of the proposed conditional use:

1. **Will not be detrimental to or endanger the public health, safety, comfort or general welfare.**

The building was previously licensed by the State of Minnesota as a 116-bed nursing home. The proposed use is a 29-unit market-rate apartment building. Similar apartments on commercial corridors exist elsewhere in the City, and have not caused complaints from nearby property owners.

2. **Will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.**

The project will remove the existing wooden access ramp located in the front yard of the building, but there will be no other significant exterior modifications to the building. Landscaping will be provided, as will screening of the south boundary of the site. The site and building has been used as multiple room dwelling and hospital since the structure was built in 1926. The surrounding area is fully developed. The project uses an existing vacant structure.

3. **Adequate utilities, access roads, drainage, necessary facilities or other measures, have been or will be provided.**

Existing utilities and access to the parking areas will not be changed. Public Works has reviewed and approved the drainage plan.

4. **Adequate measures have been or will be provided to minimize traffic congestion in the public streets.**

The proposed use will require 29 parking spaces, and the site plan shows 29 parking spaces.

5. **Is consistent with the applicable policies of the comprehensive plan.**

Policy 4.1 of the Marketplaces: Neighborhoods chapter of the Minneapolis Plan designates this part of Nicollet Avenue as a Community Corridor. That policy indicates that Minneapolis will encourage reinvestment along major urban corridors as a way of promoting growth in all neighborhoods. The renovation of the former nursing home for use as an apartment supports the residential emphasis of a Community Corridor.

6. **And, does in all other respects conform to the applicable regulations of the district in which it is located upon approval of this conditional use permit, site plan review, and variance.**

SITE PLAN REVIEW

Required Findings for Major Site Plan Review

- A. The site plan conforms to all applicable standards of Chapter 530, Site Plan Review.
(See Section A below for Evaluation.)
- B. The site plan conforms to all applicable regulations of the zoning ordinance and is consistent with applicable policies of the comprehensive plan. (See Section B below for Evaluation.)

C. The site plan is consistent with applicable development plans or development objectives adopted by the city council. (See Section C below for Evaluation.)

Section A: Conformance with Chapter 530 of Zoning Code

BUILDING PLACEMENT AND FAÇADE:

- Placement of the building shall reinforce the street wall, maximize natural surveillance and visibility, and facilitate pedestrian access and circulation.
- First floor of the building shall be located not more than eight (8) feet from the front lot line (except in C3S District or where a greater yard is required by the zoning ordinance). If located on corner lot, the building wall abutting each street shall be subject to this requirement.
- The area between the building and the lot line shall include amenities.
- The building shall be oriented so that at least one (1) principal entrance faces the public street.
- Except in the C3S District, on-site accessory parking facilities shall be located to the rear or interior of the site, within the principal building served, or entirely below grade.
- The exterior materials and appearance of the rear and side walls of any building shall be similar to and compatible with the front of the building.
- The use of plain face concrete block as an exterior material shall be prohibited where visible from a public street or a residence or office residence district.
- Entrances and windows:
 - Residential uses shall be subject to section 530.110 (b) (1).

The existing building is located approximately 14' from the front property line. The front yard setback will contain trees, shrubs, and turf. The main entrance faces Nicollet Avenue. Parking is located on the side (south) and rear (east) of the building. All sides of the building are brick. The windows and doors provide approximately 20% transparent area.

ACCESS AND CIRCULATION:

- Clear and well-lighted walkways of at least four (4) feet in width shall connect building entrances to the adjacent public sidewalk and to any parking facilities located on the site.
- Transit shelters shall be well lighted, weather protected and shall be placed in locations that promote security.
- Vehicular access and circulation shall be designed to minimize conflicts with pedestrian traffic and surrounding residential uses.
- Traffic shall be directed to minimize impact upon residential properties and shall be subject to section 530.140 (b).
- Areas for snow storage shall be provided unless an acceptable snow removal plan is provided.
- Site plans shall minimize the use of impervious surfaces.

The front door is connected to the Nicollet sidewalk by a 6' wide walkway. There are entrances on the east and south sides of the building to serve the adjacent parking areas. Residents will use the driveway onto Nicollet Avenue and the existing alley on the east side of the site for vehicle access. Snow will be stored on site. The existing impervious surface will be reduced by addition of approximately 1,422 square feet of landscaping in the areas currently paved for parking.

LANDSCAPING AND SCREENING:

- The composition and location of landscaped areas shall complement the scale of the development and its surroundings.
 - Not less than twenty (20) percent of the site not occupied by buildings shall be landscaped as specified in section 530.150 (a).
- Where a landscaped yard is required, such requirement shall be landscaped as specified in section 530.150 (b).
- Required screening shall be six (6) feet in height, unless otherwise specified, except in required front yards where such screening shall be three (3) feet in height.
- Required screening shall be at least ninety-five (95) percent opaque throughout the year. Screening shall be satisfied by one or a combination of the following:
 - A decorative fence.
 - A masonry wall.
 - A hedge.
- Parking and loading facilities located along a public street, public sidewalk or public pathway shall comply with section 530.160 (b).
- Parking and loading facilities abutting a residence or office residence district or abutting a permitted or conditional residential use shall comply with section 530.160 (c).
- The corners of parking lots shall be landscaped as specified for a required landscaped yard. Such spaces may include architectural features such as benches, kiosks, or bicycle parking.
- All parking lots and driveways shall be defined by a six (6) inch by six (6) inch continuous concrete curb positioned two (2) feet from the boundary of the parking lot, except where the parking lot perimeter is designed to provide on-site retention and filtration of stormwater. In such case the use of wheel stops or discontinuous curbing is permissible. The two (2) feet between the face of the curb and any parking lot boundary shall not be landscaped with plant material, but instead shall be covered with mulch or rock, or be paved.
- All other areas not governed by sections 530.150, 530.160 and 530.170 and not occupied by buildings, parking and loading facilities or driveways, shall be covered with turf grass, native grasses or other perennial flowering plants, vines, mulch, shrubs or trees.
- Installation and maintenance of all landscape materials shall comply with the standards outlined in section 530.220.
- The city planning commission may approve the substitution or reduction of landscaped plant materials, landscaped area or other landscaping or screening standards, subject to section 530.60, as provided in section 530.230.

The code requires 4,562 square feet (20%) of landscaped area. The site plan shows 8,679 square feet (39%) of landscaped area. The code requires 9 canopy trees and 43 shrubs. The existing landscape plan shows 7 trees and 12 shrubs. Additional trees and shrubs shall be planted to conform to code requirements. The code also requires a landscape screen 3' high and 60% opaque along the parking areas adjacent to Nicollet Avenue and East 45th Street sidewalks. The final landscape plan must be in compliance with these standards. An encroachment permit to allow planting in the City right-of-way adjacent to the sidewalks must be obtained by the applicant. Solid wood fencing is provided adjacent to the existing residential use at 6 East 45th Street. The parking areas are bounded by 6" x 6" continuous concrete curbing as required. Landscape materials will be installed and maintained in accordance with the standards of section 530.220.

ADDITIONAL STANDARDS:

- Lighting shall comply with the requirements of Chapter 535 and Chapter 541. A lighting diagram may be required.
- Parking and loading facilities and all other areas upon which vehicles may be located shall be screened to avoid headlights shining onto residential properties.
- Site plans shall minimize the blocking of views of important elements of the city.
- Buildings shall be located and arranged to minimize shadowing on public spaces and adjacent properties.
- Buildings shall be located and arranged to minimize the generation of wind currents at ground level.
- Site plans shall include crime prevention design elements as specified in section 530.260.
- Site plans shall include the rehabilitation and integration of locally designated historic structures or structures that have been determined to be eligible to be locally designated. Where rehabilitation is not feasible, the development shall include the reuse of significant features of historic buildings.

There are existing pole lights in the front yard setback, and wall-mounted light fixtures that illuminate the entrances and parking areas. These lights are in compliance with the requirements of chapters 535 and 541. The parking areas adjacent to the residence at 6 East 45th Street are screened by a 4'-6' high solid wood fence. The existing building does not block significant views, cause shadowing, or affect wind currents. Windows allow surveillance of the sidewalks and parking areas. The building is not historically designated.

Section B: Conformance with All Applicable Zoning Code Provisions and Consistency with the Comprehensive Plan

ZONING CODE: The code requires site plan review and a variance of lot area per dwelling unit.

Specific Development Standards:

Dumpster screening:

Section 535.80. Refuse storage containers shall be enclosed on all four (4) sides by screening compatible with the principal structure not less than two (2) feet higher than the refuse container or shall be otherwise effectively screened from the street, adjacent residential uses located in a residence or office residence district and adjacent permitted or conditional residential uses.

The refuse storage area is located at the rear of the building, screened by a 6' high solid fence, and is visible from nearby windows for security.

Window obstructions:

543.350. Window signs. Window signs shall be allowed, provided that such signage shall not exceed thirty (30) percent of the window area, whether attached to the window or not, and shall not block views into and out of the building at eye level. Window signs shall be included in the calculation of the total permitted building sign area, except as provided for temporary signs in section 543.330.

This provision is not applicable to the proposed apartment building.

Signage:

No signage is proposed.

MINNEAPOLIS PLAN:

Policy 4.1 of the Marketplaces: Neighborhoods chapter of the Minneapolis Plan designates this part of Nicollet Avenue as a Community Corridor. That policy indicates that Minneapolis will encourage reinvestment along major urban corridors as a way of promoting growth in all neighborhoods. The renovation of the former nursing home for use as an apartment supports the residential emphasis of a Community Corridor.

Section C: Conformance with Applicable Development Plans or Objectives Adopted by the City Council

The City Council adopted the report entitled "Nicollet Avenue: The Revitalization of Minneapolis' Main Street" in May of 2000. That report does not specifically address this site, but policy 2.6 of the housing development section calls for provision of a variety of housing types and prices. Policy 2.9 of that section states that the existing housing stock should be preserved. The remodeling of the former nursing home is in conformance to these housing policies.

Alternative Compliance. The Planning Commission may approve alternatives to any major site plan review requirement upon finding any of the following:

- The alternative meets the intent of the site plan chapter and the site plan includes amenities or improvements that address any adverse effects of the alternative. Site amenities may include but are not limited to additional open space, additional landscaping and screening, transit facilities, bicycle facilities, preservation of natural resources, restoration of previously damaged natural environment, rehabilitation of existing structures that have been locally designated or have been determined to be eligible to be locally designated as historic structures, and design which is similar in form, scale and materials to existing structures on the site and to surrounding development.

- **Strict adherence to the requirements is impractical because of site location or conditions and the proposed alternative meets the intent of this chapter.**
- **The proposed alternative is consistent with applicable development plans or development objectives adopted by the city council and meets the intent of this chapter.**

Alternative compliance is not required for this development.

VARIANCES

The previous site plan required a front yard variance for the parking area adjacent to East 45th Street from 15' to 5'. The site plan has been modified to provide the required setback. Variance of lot area per dwelling unit in the R4 district from 1,500 square feet (required) to 1,217 square feet (provided).

Findings required by the Minneapolis Zoning Code:

1. **The property cannot be put to a reasonable use under the conditions allowed and strict adherence to the regulations of this zoning ordinance would cause undue hardship.**

The R4 zoning district requires 1,500 square feet of lot area per dwelling unit. The existing lot area of 35,280 square feet would permit 24 dwelling units. The applicant indicates that because of the size and interior design of the existing building, 24 apartments would be excessively large. That size would not be standard or consistent with other apartment units in the surrounding area. The applicant had originally proposed rezoning the site to R5, to permit a 38-unit apartment development with 24 parking spaces. Staff indicated that rezoning would not be appropriate, and suggested a smaller number of units, with a lot area variance. The current proposal decreases the number of units from 38 to 29, and increases parking from 24 spaces to 29 spaces.

2. **The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.**

The lot size and existing nursing home structure are unique to this parcel. The site was zoned R4 when the previous code was adopted in 1963, when it was used as a nursing home. The applicant indicates that 29 units are required for the most space-efficient unit design and the economic viability of the project.

3. **The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.**

The variance will allow an increase in the number of dwelling units from 24 to 29, including 22 two and three-bedroom units. The R4 zoning district is a medium-density zone, as is the proposed 29-unit development. R5 zoning would permit up to 39 dwelling units, which would be close (48 DU/acre) to high-density housing. Although the applicant has not yet indicated the proposed rental cost for the apartments, there is city-wide demand for multiple-bedroom units that can serve families. The building has been in residential use since it was built, and the proposal will not alter the character of the locality.

4. **The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.**

The code requires 29 parking spaces, and the site plan indicates that 29 spaces are provided. The variance should not increase congestion in the streets.

RECOMMENDATION OF THE CITY PLANNING DEPARTMENT:

REZONING

The rezoning application has been withdrawn by the applicant.

CONDITIONAL USE PERMIT

The City Planning Department recommends that the City Planning Commission adopt the above findings and **approve** the application; for a conditional use permit at 4429 Nicollet Avenue South.

SITE PLAN REVIEW

The City Planning Department recommends that the City Planning Commission adopt the above findings and **approve** the application for site plan review at 4429 Nicollet Avenue South, with the following conditions:

- 1) The Planning Department shall review and approve the final site and landscaping plans.
- 2) The final site and landscape plan shall show:
 - a) Shrubs 3' in height, providing a minimum of 60% opacity, adjacent to the parking areas that front on Nicollet Avenue and East 45th Street, and an encroachment permit.
 - b) A minimum of 9 canopy trees and 43 shrubs.

Minneapolis City Planning Department Report

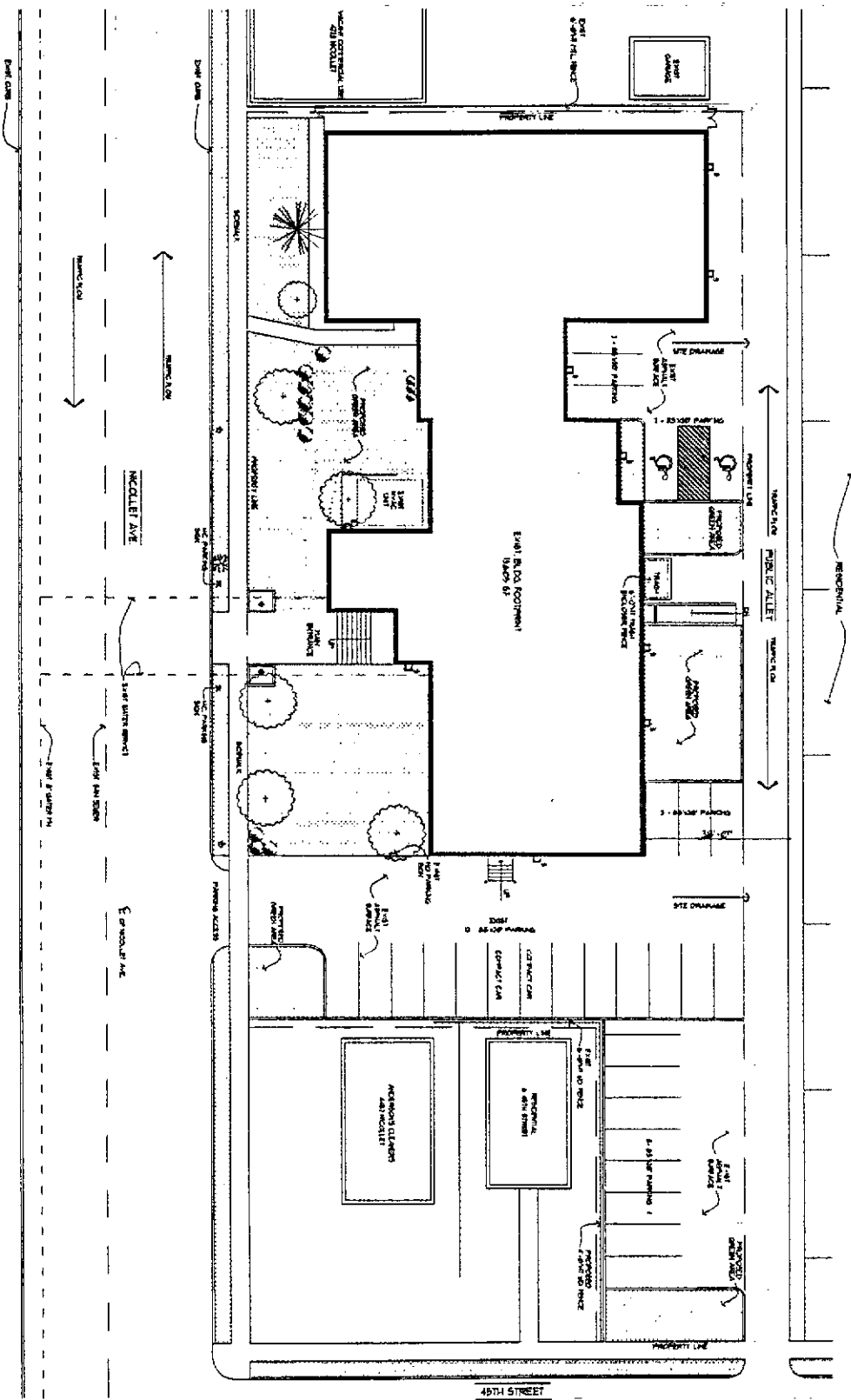
BZZ-498

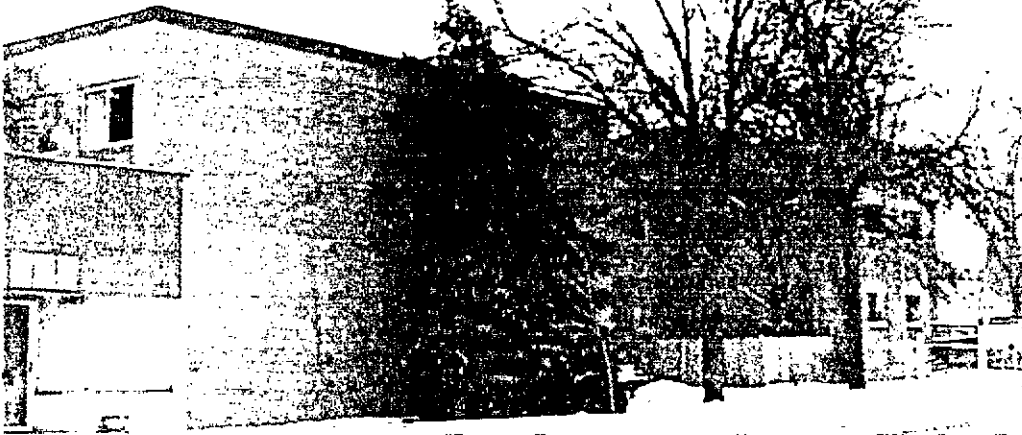
- 3) The applicant shall provide a performance bond in an amount equal to 125% of the cost of site improvements, if such improvements exceed \$2,000 in cost, by June 15, 2002, or the permit may be revoked for noncompliance.
- 4) All site improvements shall be completed by May 1, 2003, unless extended by the Zoning Administrator, or the permit may be revoked for noncompliance.

VARIANCE

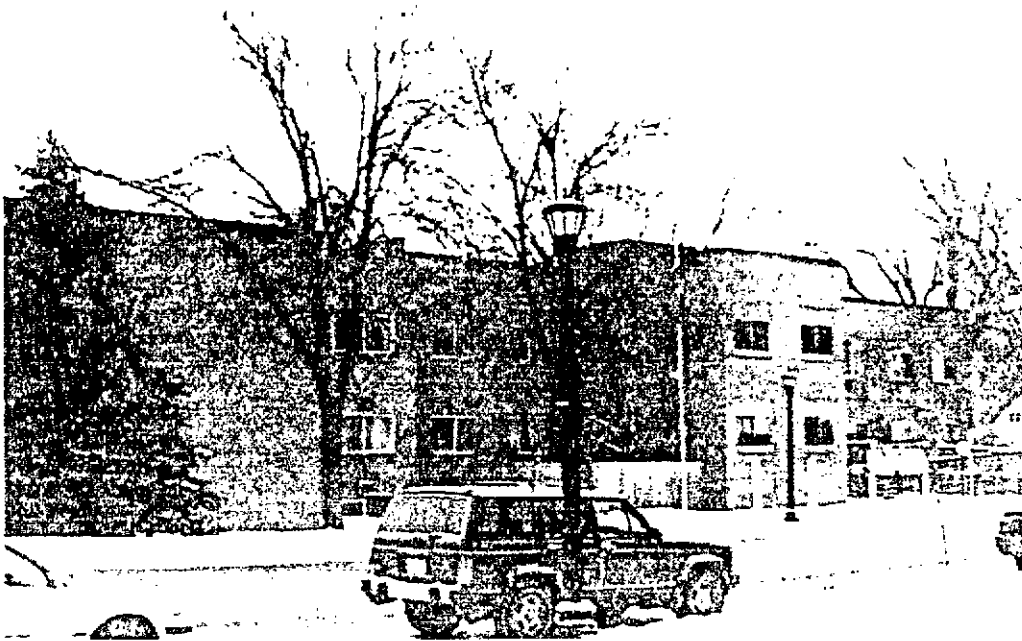
The City Planning Department recommends that the City Planning Commission adopt the above findings and **approve** the application for variance of lot area per DU from 1,500 square feet/DU to 1,217 square feet/DU at 4429 Nicollet Avenue South. The front yard variance for the parking area adjacent to East 45th Street is not required because of modifications to the site plan.

SITE PLAN

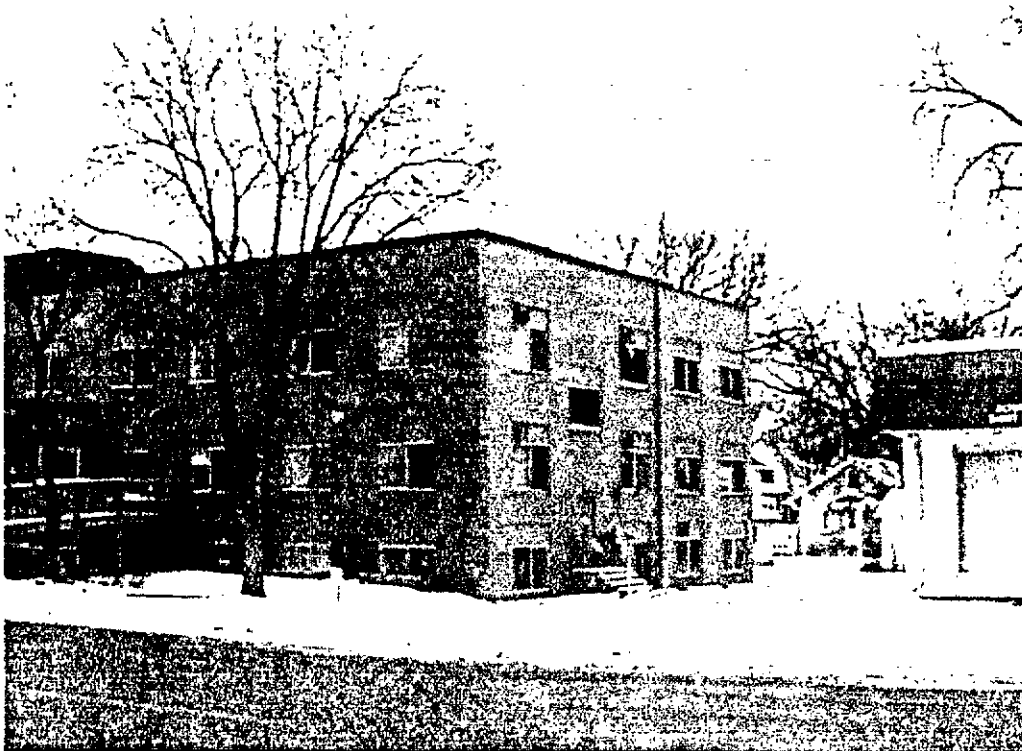




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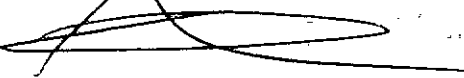
TO: Gary Dorek , Minneapolis Planning Dept.

FROM: Ned Abdul, Swervo Development Corporation

RE: 4429 Nicollet Ave. So., Mpls., Mn

As of February 21, 2002 we are withdrawing our application for rezoning from R4 to R5 and have decided to apply for a 20% lot area variance instead.

Sincerely,

A handwritten signature in black ink, appearing to be "Ned Abdul", written over a horizontal line.

Ned Abdul
Swervo Development Corporation
P.O. BOX 50176
MPLS, MN 55405